THE RECORD
OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

EDITORIAL BOARD

HARRISON TWEED, *President* | PAUL B. DE WITT, *Executive Secretary* | WHITMAN KNAPP, *Secretary*

THE RECORD is published at the House of the Association, 42 West 44th Street, New York, 18.

Volume 3 | April 1948 | *Number 4*

Association Activities

IN THE CLOSING days of the session a bill to add a fourth and unnecessary judge to the Bronx County Court went, as the *New York Herald Tribune* said, "whooping through the Legislature." It was, as that newspaper also said, "a neat little piece of pie-cutting between the Edward J. Flynn Democrats and their acquiescent two-cylinder Republican adjunct, John J. Knewitz." It is unnecessary here to record again the deals that were to follow upon this act of statesmanship. Those deals were made public and condemned by the Association and by practically the entire press of the city.

At its stated meeting on March 9 the Association, upon motion of Paul Windels, passed with only one dissenting vote the following resolution:

> WHEREAS bills have been introduced for the creation of additional surrogates in New York and Kings Counties and an additional county judge in Bronx County, although there has been no authoritative finding of the need for any such additional surrogates or judges; and
>
> WHEREAS in connection with these bills it has been stated in the press that the persons to hold these offices

have already been selected by bipartisan arrangement; it is

RESOLVED that the Association is opposed to any legislation for an increase in the number of judges in the City of New York unless and until there is an authoritative showing of need by the Judicial Council or other competent agency; and be it

FURTHER RESOLVED that copies of these resolutions be forwarded to the Governor and to the legislative leaders; and be it

FURTHER RESOLVED that the president be authorized to appoint a special committee with authority to take all steps necessary to make effective the Association's position, including authority to make personal representation to legislative leaders and the Governor.

Acting under the resolution the president appointed the following members on a committee to make clear to the Governor the Association's position: Paul Windels, Chairman, George W. Alger, Arthur A. Ballantine, C. C. Burlingham, Julius Henry Cohen, Jackson A. Dykman, Charles E. Hughes, Jr., Samuel Seabury, Whitney N. Seymour, Kenneth M. Spence, Allen Wardwell, Bethuel M. Webster, Ignatius M. Wilkinson.

As this number of THE RECORD goes to press, the success of the committee's efforts with the Governor and the legislative leaders is not known.

Two OTHER resolutions approved by the Stated Meeting of the Association on March 9 which met with support from the members were the resolutions offered by the Special Committee on Military Justice, of which Frederick vP. Bryan is chairman. The resolutions read as follows:

RESOLVED, that this Association urges amendment of H. R. 2575 to provide (a) that the power to appoint courts,

assign defense counsel and review sentences be transferred from command to an independent Judge Advocate General's Department, reserving to command the right to refer cases for trial, control the prosecution and exercise clemency with respect to sentences; (b) that both prosecutors and assigned defense counsel must be lawyers; (c) that defense counsel shall have the opportunity to present their views on review; and (d) that a civilian commission be constituted continuously to study the operations of military justice and make periodic recommendations for its improvements; and

BE IT FURTHER RESOLVED, that this Association authorizes its Special Committee on Military Justice, alone or in conjunction with others likeminded, to take all proper steps necessary or desirable to carry out the foregoing resolution.

Of this action *The New York Times* said, "The vote of The Association of the Bar of the City of New York in favor of a resolution urging more fundamental changes in the system of military justice than are provided for in the Elston Bill, now before Congress, represents, we believe, the view of most peacetime civilians who saw wartime duty in uniform."

THE COMMITTEE on the Bill of Rights, Henry A. Johnston, Chairman, presented the following resolution at the Stated Meeting on March 9, which was approved:

RESOLVED that this Association favors the enactment in New York State of a fair educational practices law providing for the establishment within the Education Department of machinery for (1) investigation of discrimination in admissions to educational institutions at the post-secondary school level because of race, religion, color or national origin; (2) use of educational, conciliatory and other informal methods looking toward the elimination of such discrimination, and (3) issuance by the Board of Regents after public hearings of cease and desist orders,

enforceable in the courts, such law to provide exemption to religious or sectarian institutions insofar as distinctions based on religion are concerned and to exempt completely institutions not receiving public funds or tax exemption.

THE COMMITTEE on Law Reform, Barent Ten Eyck, Chairman, was successful in having the Association approve its report dealing with the Amendment of Section 25 of the New York Personal Property Law. The report was published in THE RECORD, Volume 3, Number 2, February, 1948, page 73.

No action was taken by the Stated Meeting on the report of the Committee on International Law dealing with the United Nations Draft Covenant on Human Rights. The report will be presented to the Association at a Special Meeting on April 20.

CONTINUING its efforts to end or lessen tax inequities which affect lawyers, doctors, accountants, and other professional workers, the Special Committee on Public and Bar Relations, Judge Samuel I. Rosenman, Chairman, had a second meeting of organizations interested in furthering this program in Congress. The following organizations were represented: American Dental Association, American Institute of Architects, American Institute of Chemical Engineers, American Institute of Chemists, American Institute of Consulting Engineers, American Medical Association, American Pharmaceutical Association, American Veterinary Medical Association, Chamber of Commerce of the State of New York, Coordinating Council of the Five County Medical Societies, Engineers Joint Council, Investment Counsel Association of America, Medical Society of the County of New York, Medical Society of the State of New York, National Association of Broadcasters, National Association of Life Underwriters, National Association of Security Dealers, Inc., New York Society of Certified Public Accountants, and the Washington Building Congress.

Several other organizations not present have indicated their

support. In this number of THE RECORD will be found a memorandum explaining the plans which the Committee is sponsoring and a draft of the amendments which the Association's Committee on Taxation believes are essential to implement the plans.

THE SPECIAL COMMITTEE on the Unification of the Courts, Porter R. Chandler, Chairman, has had several meetings to discuss the proposal for the consolidation of General Sessions and the Supreme Court, New York County. The Committee had the benefit of the views of the District Attorney, of New York County as expressed by representatives of his staff. It was decided not to ask the Association to take a position on this measure but to make a more detailed study of the whole subject of court unification with a view to recommending action to the next session of the Legislature.

THE CALENDAR of the Association indicates that in April there will be an exceptionally interesting number of special events, both educational and entertaining. First on the list, on April 8, are a demonstration of arbitration proceedings and a forum dealing with legal and medical problems involved in incompetency proceedings.

The arbitration demonstration is the second of its kind sponsored by the Committee on Arbitration, John T. McGovern, Chairman, and has been presented in several other places before opening in New York. The demonstration sponsored by the Committee last year has also been popular and has had several one-night stands.

The forum under the sponsorship of the Committee on Medical Jurisprudence is the opening event in what is hoped will be a series of forums designed to acquaint the membership with matters in the field of the Committee's interest.

The day after the two events just described the Junior Bar Activities Committee will hold the second of its moot court com-

petitions. This time the opposing counsel will come from Harvard and Columbia. The first of the competitions drew a very large audience and students and members thoroughly enjoyed themselves. The second round promises to be even better. The members of the court will be Judge Augustus N. Hand, Robert P. Patterson and Harrison Tweed.

On April 12 James Landis will appear on a program arranged by the Committee on Aeronautics, Hamilton O. Hale, Chairman. This will be Mr. Landis's first public appearance since his resignation from the chairmanship of the Civil Aeronautics Board.

April 14 will be the opening night of the Entertainment Committee's All-Star Minstrel. Announcements in the Entertainment Committee's usual restrained style will, of course, be mailed to all members.

On April 22 there will be a forum dealing with a number of problems now before the organized bar. It will be recalled that at a similar occasion last year there was a large attendance and a great deal of interest was generated. This year among the speakers will be Judge Learned Hand, Henry P. Chandler, Director of the Administrative Office of the United States Courts, and Tappan Gregory, President of the American Bar Association.

THE LISTING above of some of the Association's activities in April indicates that a word of explanation is appropriate as to the practice of mailing a number of Association notices under one cover. The explanation, of course, is economy. A single mailing to the membership costs about one hundred dollars. A considerable savings results when a number of events are covered by one mailing. There may even be an advantage other than a monetary one in the practice, and that is that it permits members to arrange their own calendars so as to be able to attend a number of the functions.

In any event, the question has been discussed a number of times and the most competent professional advice has been

sought. The professional advisers, although it would have profited them to say otherwise, were agreed that within the limits of the budget the manner of mailing the notices, and particularly the form of the notices, could not be improved upon.

THE IMPROVEMENT of the administration of justice is a long process but sustained effort on the part of bar association committees does bring results. Within the past month two notable reforms have been secured by two committees of the Association which have been urging them and working for them for many years.

The Committee on Courts of Superior Jurisdiction, Samuel M. Lane, Chairman, was successful in its effort to improve the calendar administration in the Supreme Court and was also successful in having a pre-trial calendar established. The Committee has on several occasions expressed its appreciation to the Honorable David W. Peck, Presiding Justice of the Appellate Division, for his very great assistance in furthering in these instances and in others an efficient judicature.

The City Court Committee, Lester Kissel, Chairman, was also successful in its efforts to have a pre-trial calendar established in the City Court. The rule establishing the calendar, which took effect April 5, is based in part upon a report of the Committee which was submitted to the Court sometime ago and which is published for the first time in this number of THE RECORD.

THE SPECIAL Committee on the Federal Courts received approval of its program from the American Bar Association at the meeting of the House of Delegates of the A.B.A. on February 23. The items approved were recommendations for a constitutional amendment to limit the Supreme Court of the United States to a Chief Justice and eight Associate Justices and to provide for compulsory retirement at the age of seventy-five; and a constitu-

tional amendment which would prohibit any member of the Supreme Court from being eligible for the office of President or Vice President. The House of Delegates referred to the Committee on Jurisprudence and Law Reform the Committee's recommendation dealing with the appellate jurisdiction of the Supreme Court. It should be also be noted that the House of Delegates approved this Association's recommendation to the Congress that three additional judgeships be created in the Southern District.

THE COMMITTEE on Post-Admission Legal Education, Cloyd Laporte, Chairman, has announced that the Seventh Annual Benjamin N. Cardozo Lecture, which was to have been given by Professor Arthur L. Goodhart, K.B.E., K.C., on April 20, has been postponed to May 25. Professor Goodhart will speak on "English Contributions to Legal Philosophy."

On February 17 Whitney North Seymour, in the fourth of the lecture series sponsored by the Committee, discussed "Recent Developments in Constitutional and Administrative Law." It is hoped that Mr. Seymour's excellent lecture will be published in an early number of THE RECORD.

MAY 4 is the date set for the opening of the Art Committee's annual exhibition of paintings, sculpture, and graphic arts. The number of entries indicate that a good many members have been inspired by the previous exhibitions to send in their masterpieces. The opening is one of the most pleasant social occasions in the Association year. There is some indication that the magazine *Life* will in an early number in April devote some of its pages to the paintings exhibited last year.

The Calendar of the Association for April

(As of March 31, 1948)

April 1 Dinner Meeting of Committee on Foreign Law
Dinner Meeting of Committee on Law Reform

April 5 Meeting of Committee on the Federal Courts
Dinner Meeting of Committee on Federal Legislation
Dinner Meeting of Committee on Professional Ethics

April 6 Dinner Meeting of Committee on Administrative Law
Meeting of Section on Trials and Appeals

April 7 Meeting of Executive Committee
Meeting of Section on Wills, Trusts and Estates

April 8 Arbitration Demonstration, Auspices of Committee on Arbitration
Forum on Incompetency Proceedings. Auspices of Committee on Medical Jurisprudence, New York Academy of Medicine and Medical Society of County of New York

April 9 Moot Court Competition between Columbia and Harvard Law Schools. Auspices of Committee on Junior Bar Activities

April 12 Aviation Forum. James M. Landis, Esq., Speaker. Buffet Supper 6:15 P.M.

April 13 Round Table Conference and Meeting of the Section on State and Federal Procedure. Preceded by buffet supper 6:15 P.M.

April 14 Minstrel Show. Auspices of Committee on Entertainment

April 15 Minstrel Show. Auspices of Committee on Entertainment

April 16 Minstrel Show. Auspices of Committee on Entertainment

April 19 Dinner Meeting of Committee on Insurance Law
Discussion on Disposition of Claims Involving Insurance Companies. Raymond N. Caverly, Speaker.
Meeting of Section on Taxation

April 20 Special Meeting of Association. Preceded by cocktail party for auxiliary members, 5 P.M., and buffet supper for all members of Association, 6:15 P.M.

April 21 Meeting of Committee on Admissions
Meeting of Section on Labor Law
Meeting of Committee on Public and Bar Relations
Dinner Meeting of Committee on Bankruptcy and Corporate Reorganizations

April 22 Conference on Problems of the Organized Bar, 5:15 P.M. Buffet Supper 6:15 P.M.

April 26 Meeting of Library Committee

April 27 Discussion, Anti-Trust Decisions by Milton Handler, Esq. Auspices Committee on Trade-Marks and Unfair Competition

April 28 Meeting of Section on Corporations
Meeting of House Committee
Dinner Meeting of Committee on Courts of Superior Jurisdiction

Tax Discriminations Against Lawyers*

A very glaring injustice in our income tax structure is the method of taxing so-called earned income, i.e. income derived from salaries, wages, professional fees, and all other forms of remuneration attributable to personal services.

Our present plan and rate of taxation make it well-nigh impossible for taxpayers whose income is derived primarily from these sources to achieve a modest degree of security. This result is inconsistent with our national policy to encourage the establishment of social security.

In the years prior to the war, the successful doctor, lawyer, writer, engineer, architect, accountant, artist, actor, etc. could set aside enough in his peak years of earnings to take care of later years of decreased earnings and eventual retirement. He knew that the increased period of preparation for his profession or vocation together with the quickened tempo of modern life cut down the span of his best income-producing years. Therefore the wiser among those groups would lay aside some of their earnings in the fat years for the foreseeable lean years. This building up of a nest-egg was possible in those days because the income tax rates left enough in the pocket of the professional or salaried taxpayer.

We started with an income tax law which said that we had to pay taxes in accordance with our ability to pay— which meant the higher the earnings, the higher the percentage payable to the tax collector. No quarrel! Uncle Sam also said he had to have taxes

---

* This memorandum was prepared in connection with the program of the Special Committee on Public and Bar Relations, of which Judge Samuel I. Rosenman is chairman. That Committee is working to end or lessen manifest tax inequities which are unjust and ruinous to lawyers, doctors, dentists, accountants, actors, engineers, and all others who depend for their livelihood on so-called "earned income." The first part of the memorandum is a more or less popular presentation of the Committee's program. Part Two consists of proposed amendments to the Internal Revenue Code necessary to implement the program. The amendments were drafted by the Committee on Taxation, Rollin Browne, Chairman. Part Three is an explanation by Mr. Browne's Committee of the effect of the proposed amendments.

from us at least once a year. Again, no quarrel! Graduated rates, even in combination with an annual measurement of ability to pay, produced no shocking results in those years when the surtax rates were modest.

Today, with sharply graduated surtax rates, the result is catastrophic. No longer can the professional or salaried taxpayer plan for his inevitable lean years, and particularly for his retired years. This result is unnecessary.

Because the Treasury needs revenue at least once every twelve months, it does not follow that the taxpayer's ability to pay should be measured arbitrarily by reference to income received over any particular twelve-month period. The injustice of such a measurement is demonstrated even more graphically when we consider the plight of such persons as the author, the actor, the baseball player, the boxer, the screen star or radio personality—all of whom usually enjoy a very intense but short-lived popularity. The bulk of the lifetime earnings of any one of these taxpayers may well be concentrated into a period running from five to fifteen years. Thereafter, their annual incomes may drop precipitately to a small percentage of their earnings in their heyday. To subject the high-income yearly earnings to the kind of surtax rates now on the statute books is inequitable and unjust. Their working lifetime is short, and their age income progression is steep.

The unfortunate lot of the professional or salaried taxpayer is the result of an unfair and discriminatory scheme of taxation. This becomes obvious if we compare his position with that of the taxpayer who operates an incorporated business.

Despite the present steep surtax rates, it is still possible for the business man who operates an incorporated business to set aside enough in his years of productive activity to meet his requirements in the closing years of life. In most cases, he need only draw enough from the business to cover his personal living expenses plus personal income tax. The rest of the business earnings are

subject to a corporate tax rate ranging from 21% to 38% depending upon the amount of earnings. There is, of course, the personal tax dividends to the stockholder. This fairly modest tax is to be contrasted with individual income taxes which are payable under graduated rates attaining approximately 36% at $10,000, 45% at $15,000, 53% at $20,000, and 59% at $26,000.

If the business is successful, it can expand and increase in net worth over the years. When he is ready to retire, he can turn the responsibility of management over to others and content himself with dividends. If he wishes to reduce somewhat the impact of the personal tax on dividends, he can make gifts of some of his stock to members of his family who are in relatively low income tax brackets. If he sells his business, any profit (including appreciation in good will or in other corporate asset values) is subject to a maximum tax of 25%. When he dies, his family can continue to operate the business or sell it, reinvesting the proceeds. Upon such sale good-will value engendered to date of death is subject to no income tax whatsoever.

Furthermore, during his productive period, he can establish a pension trust for all the employees of the corporation *including himself*. As the corporation pays money for it into the pension fund each year, it receives a tax deduction. (During 1947 corporations did pay about one billion dollars into pension and profit-sharing funds for which they received a tax deduction as a business expense.) Neither he nor any other employee need include such amounts in their taxable income at that time. When he retires and begins to draw down his pension money, only then does he report his drawings, which are the income of former years, as taxable income. And at that time his income usually will have fallen into more modest brackets. Irrespective of the bracket, however, he has the income *when he needs it most*—when he is no longer such an active income-producer, when he is ill or advanced in years. These measures of security available to the businessman, professional or otherwise, doing business in

corporate form are denied to taxpayers doing business as partners or as individuals.

To the extent that a corporate owner of a business who is also an employee of the corporation may cover himself in a pension plan established by the corporation for its employees, there is a discrimination against persons doing business as partners or as individual proprietors. For under the present law, partners and individual proprietors may not be included in pension plans.

This discrimination largely explains the unwillingness of individual proprietorships and partnerships to establish pension plans for their employees, few of whom now enjoy the benefits of pension plans.

There is also factual discrimination as between the employee of a business which has set up a pension plan providing protection for him for his old age, and the employee of a business which has not set up a pension plan.

It is proposed that these discriminations and injustices be rectified as soon as Congress can be persuaded to do so, by the following changes in the tax law:

1. The adoption of an amendment to the existing pension trust provisions permitting partners and individual proprietors to formulate pension plans, the costs of which are deductible in computing their income taxes. This would remove the discrimination now existing as against sole proprietors and partners.

2. The adoption of a personal individual retirement plan. Under such a plan every person with earned income (whether partner, self-employed, or employee) would be permitted to set aside some of his own income for his old age. This he would do by purchasing from current earned income a limited amount of special, non-negotiable government bonds, the cost of which would be excluded from his income in the year of purchase for tax purposes. The suggested limit is 15% of earned income or $10,000, whichever is less. In later life, when he cashes any of the bonds the proceeds thereof become taxable as income in the year in which cashed.

PROPOSED AMENDMENTS TO INTERNAL REVENUE CODE

I. To Section 165 (relating to employees' pension, etc. plans), add a new subsection (d), as follows:

> (d) For the purposes of this section, (i) an individual proprietor and members of a partnership who perform personal services in the business of such proprietorship or partnership shall be deemed 'employees' as well as 'employers'; (ii) the portion of the profits of such individual proprietor and partners attributable to their personal services shall be deemed 'compensation'; and (iii) in the case of a taxpayer engaged in a trade or business in which both personal services and capital are material income producing factors, the determination of the portion of profits attributable to personal services shall be made under regulations prescribed by the Commissioner with the approval of the Secretary."

II. In Section 165 (a), add the words "individual proprietors, partners" between "shareholders" and "persons" in paragraphs (3)(B) and (4).

III. At the end of Section 165 (a)(4), add a new sentence, as follows:

> "The contributions or benefits under a plan shall not be considered discriminatory under this paragraph if the contributions provided under the plan for employees described in subsection (d) do not exceed the same percentage of the compensation of such employees as is provided under the plan with respect to the compensation of all other employees covered by the plan.

IV. To subsection 22(b) (relating to items excluded from gross income) add a new paragraph (15), as follows:

> "(15). *Amounts set aside for retirement*
>
> "(A) Amounts expended by an individual during the taxable year in the purchase of bonds of the United States to be issued under the authority and subject to the provisions of the Second Liberty Bond Act, as amended, and

the purposes for which bonds may be issued under such Act are extended to include the purposes for which bonds may be issued under this paragraph. Such bonds shall bear interest at the rate of 1% per annum (payable at redemption), shall have no fixed maturity, shall be registered in the name of the taxpayer, shall be non-negotiable, and shall not be transferable by sale, exchange, assignment, pledge, hypothecation, or otherwise. Such bonds shall be subject to redemption at holder's option (i) at any time after attainment by the taxpayer of age 60, or (ii) at any time after the death of the taxpayer (but interest on such bonds shall cease to accrue upon the tenth anniversary of such taxpayer's death). The taxpayer may provide for payment of any such bond to designated alternate individual beneficiaries in the event of his death before redeeming the same, and such designation and changes thereof shall be made under regulations prescribed by the Commissioner with the approval of the Secretary. Redemption after the taxpayer's death may be made by any beneficiary so designated by the taxpayer, or by the executor or administrator of an such beneficiary, or by the executor or administrator of the taxpayer if no such designated beneficiary survives the taxpayer or no such beneficiary has been designated.

"(B) Amounts contributed by the taxpayer for his own benefit to or under a pension plan meeting the requirements of Section 165 (a) and amounts contributed by the taxpayer to the purchase for his own benefit of an annuity contract described in Section 23(p)(1)(B).

"(C) The maximum annual exclusion under this subsection 22(b)(15) shall not exceed 15% of the taxpayer's earned net income or the sum of $10,000, whichever is the lesser, minus any amount contributed by an employer to or under a pension plan meeting the requirements of Section 165(a) or to the purchase of an annuity contract described in the first sentence of Section 22(b)(2)(B) (whether such contribution is made before or during the taxpayer's taxable year) to the extent that taxpayer acquires a vested interest in such contribution at any time during his taxable year, [provided that when the accumulations of the aforesaid annual exclusions shall equal the amount necessary to provide a cash refund annuity of

$10,000 per annum at age 65, no further exclusions shall be permitted under this paragraph.]*

"(D) Earned income definitions. (i) 'Earned income' means wages, salaries, professional fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount not included in gross income (except for the provisions of this paragraph), nor that part of the compensation derived by the taxpayer for personal services rendered by him to a corporation which represents a distribution of earnings or profits rather than a reasonable allowance as compensation for the personal services actually rendered. (ii) 'Earned income deductions' means such deductions as are allowed by Section 23 for the purposes of computing net income, and are properly allocable to or chargeable against earned income. (iii) 'Earned net income' over the sum of the earned income deductions. (iv) In the case of an individual proprietor or member of a partnership, engaged in a trade or business in which both personal services and capital are material income producing factors, the portion of the profits of the individual proprietor or partnership which constitutes earned net income shall be determined under regulations prescribed by the Commissioner with approval of the Secretary."

V. To the first sentence of subsection 22(a), add a new clause, as follows, substituting a semicolon for the period:

"; also the full amount received (i) under an annuity contract, the cost of which was excluded from the taxpayer's gross income under Section 22 (b)(15)(B) and no part of such amount shall be excluded from gross income under Section 22(b)(2)(A), or (ii) upon the redemption of any bonds of the United States described in Section 22(b)(15)(A), but the amount of such bonds remaining unredeemed on the tenth anniversary of the death of the purchaser thereof shall be included in gross income of the

* The limitation expressed in the matter included in brackets [ ] is *not* recommended by the Association's Committee on Taxation. Both the limitation and the language used to express it are the recommendations of an executive committee established by the organizations interested in the proposals of the Committee.

person entitled to the proceeds of redemption in the taxable year in which falls such tenth anniversary."

VI. To Section 143, add a new subsection (b), as follows, and re-number the existing subsections (b) to (f) as (c) to (g):

"All officers and employees of the United States having the control, receipt, custody, disposal or payment of the proceeds payable upon the redemption of United States bonds described in Section 22(b)(15)(A) shall deduct and withhold from such proceeds a tax equal to 19% thereof."

VII. In Section 117(f) (providing, in effect, that retirement of a bond shall be deemed an exchange resulting in a capital gain or loss), insert at the end of the matter in parentheses the words, "other than the bonds described in Section 22(b)(15)."

EXPLANATION OF THE PROPOSED AMENDMENTS

The following is a brief explanation of the major items in the proposed amendments.

I and II. This amendment extends the pension trust provisions to cover individual proprietors and partners who work in the business. It also defines what part of their profits shall be deemed compensation for personal services; this amendment is necessary because there are limitations with respect to the amount which may be contributed by an employer to a pension plan, which limitations are based on the compensation of the employees.

III. Under present rulings of the Treasury Department, not more than 30% of the contributions to the pension plan may benefit corporate executives included in the plan who are stockholders owning 10% or more of the stock of the corporation. If such a 30% limitation were imposed with respect to the extension of the pension plan provisions to cover partners and individual proprietors, the benefits of the extension would be quite limited. The purpose of this amendment is to substitute for the 30% rule, a limitation to the effect that the same percentage of compensation of stockholders, partners, and individual proprietors may be

put into the plan as of other employees covered by the plan. This leaves ample room for the Treasury Department under other provisions of the law to determine that particular plans discriminate unduly in favor of stockholders, partners or proprietors.

IV. Paragraph (A) permits the exclusion from income of the cost of specified United States Government bonds, bearing 1% interest and having no maturity date. Provisions are made limiting transfer except at death. Redemption of the bonds by the purchaser may be made only after he has attained age 60 in order to assure the use of this provision for retirement purposes. While perhaps provision should be made for earlier redemption to meet emergencies, it does not seem possible to provide an administratively feasible method to prevent early redemptions except for emergency purposes. Provision is made for redemption by beneficiaries or by the estate of the purchaser after his death. Interest ceases ten years after death; this provision ties in with the amendment in V (below).

The limitation of the exclusion of saved income to special Government bonds is designed for administrative convenience. Some tax authorities believe that it would be socially desirable to permit each individual taxpayer to set aside his own pension fund in such form as he might choose, not limited to United States Government bonds. It might be possible to work out such a plan with due regard to the administrative problem if retirement funds not contributed to qualified pension plans or invested in special Government bonds were required to be administered by banks or trust companies having the usual trust powers, or invested in insurance or retirement annuities.

(B) This provision provides an exclusion from income for amounts contributed by a taxpayer to a pension plan, or for the purchase of a retirement annuity contract, for his own benefit.

(C) This provision limits the exclusion under (A) and (B) to 15% of the taxpayer's earned net income or $10,000, whichever is less, less any amount contributed by an employer to a pension plan or for the purchase of a retirement annuity contract, which employer contribution is for the taxpayer's irrevocable benefit.

(D) This language defines earned net income for the purpose of determining the 15% limit provided in (C). The first three subdivisions of (D) are familiar in the tax law, having been taken from earlier definitions used with respect to the computation of the earned income credit. The fourth subdivision of (B) gives the Treasury power to determine what part of the income of a proprietor or partner of a business using capital is earned income.

V. This language imposes a tax at the time of the receipts of an annuity the cost of which was excluded from the taxpayer's income under (B) (described in IV above). It also imposes a tax upon the redemption of bonds described in (A) (discussed in IV above) and makes clear that the amount of such bonds must be included in income not more than ten years after the death of a purchaser.

VI. To insure collection of the tax at the time of redemption of the special Government bonds, this amendment provides for the withholding of the tax by the Government agent who pays over the proceeds of the redeemed bonds. The rate will of course be adjusted from time to time to conform to any changes in the lowest bracket rate. It has been suggested that the statute should prevent tax avoidance through disproportionately large redemptions in loss years (referring to the period after attainment of age 60 or after the taxpayer's death). This could be accomplished, for example, by providing that the proceeds of redeemed bonds shall be taxed without allowance as a deduction against them of any net losses of the taxpayer. One answer to this suggestion is that, in the absence of such a safeguard to the revenue, the proposed amendment serves to effect a simple means of "averaging" income, which in itself is a desirable improvement in the tax law.

VII. This amendment makes it clear that the proceeds of redeemed bonds will not be taxed at capital gain rates but at ordinary income rates.

Committee Reports

COMMITTEE ON LABOR AND SOCIAL SECURITY LEGISLATION

REPORT ON WHETHER THE NEW YORK STATE LABOR RELATIONS LAW SHOULD BE CHANGED SO AS TO CONFORM TO THE NATIONAL LABOR RELATIONS LAW AS AMENDED BY THE PROVISIONS OF THE TAFT-HARTLEY LAW*

This report is not primarily concerned with the merits or demerits of the Taft-Hartley legislation. It is intended to consider the impact of the Taft-Hartley Law on labor relations in New York State and to consider whether, as a result thereof, the New York State Labor Relations Law should be amended.

STATEMENT OF THE PROBLEM

Prior to the enactment of the Taft-Hartley Law, the New York State Labor Relations Law was similar to the federal law, and the question as to which of such statutes applied to any given labor controversy was not of major importance. It was generally assumed that, in questions which involved both interstate and intrastate transactions, the jurisdiction of the New York State Labor Relations Board was concurrent with that of the National Board. In fact, the National Board had made an agreement with the State Board whereby certain types of disputes were left solely within the province of the State Board. Shortly before the passage of the Taft-Hartley Act, however, the Supreme Court of the United States, in the case of Bethlehem Steel Company et al v. New York State Labor Relations Board, 330 U. S. 767, decided that the jurisdiction of the Federal Board was exclusive, at least in cases where the Federal Board had announced a policy covering the facts at issue. While the effect of this decision was not entirely clear, there was no doubt that it sharply limited the jurisdiction of the New York State Labor Relations Board.

---

* This report will be presented at a Special Meeting of the Association on April 20, 1948.

In order to meet this situation, Section 10 (a) of the Taft-Hartley Act was enacted. This section provides:

> "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise: *Provided,* That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith."

The language of this section, in granting the National Board the power to cede jurisdiction (with four specified exceptions) to a state agency, apparently carries with it an implication that the National Board has exclusive jurisdiction over all cases affecting interstate commerce until such jurisdiction is ceded. Assuming this to be the intention of the provision, any doubt as to the exclusive jurisdiction of the National Board which may have survived the decision of the Bethlehem case has been removed and the State Board cannot now exercise jurisdiction without cession by the National Board in such cases.

Unfortunately, the language of Section 10 (a) is ambiguous. It is embodied in a section dealing only with unfair labor practice cases. There is no similar express authority to cede jurisdiction in connection with cases involving representation unaccompanied by unfair labor practices. During 1947, prior to the passage of the Taft-Hartley Act, representation cases accounted for approximately 63% of all cases handled by the New York State Labor Relations Board and unfair labor practice cases for only 37%.

It should be borne in mind that in discussing the jurisdiction of the National Labor Relations Board traditional concepts of interstate commerce must necessarily be discarded, as it is not necessary for an employer to be engaged in interstate commerce in order to come under the jurisdiction of the National Board. It is only necessary that

a labor dispute between such employer and his employees may "affect" such commerce.

Under the present state of the law, therefore, it would appear that the New York State Labor Relations Board can exercise jurisdiction only in cases which do not "affect" interstate commerce and that there is an extensive borderline of cases as to which the jurisdictional question will be left in doubt until it is authoritatively passed upon by a court. A large segment of labor relations problems in New York State has thus been removed from the jurisdiction of the New York State Board and placed under the jurisdiction of a Federal Board which is not equipped to handle such cases expeditiously.

After considerable study, this Committee is of the opinion that piecemeal amendment of various provisions of the New York State Labor Relations Act will not be sufficient to enable the National Board to cede jurisdiction to the State Board under Section 10 (a). It is the opinion of the Committee that in order for the State Board to be in a position to benefit by any such cession, the State Act must be amended so as, in effect, to conform the State Act to the provisions of the National Act as amended by the Taft-Hartley Law.

There is a difference of opinion within the Committee as to whether or not the State Act should be so amended.

THE MAJORITY VIEW

The majority of the Committee is of the opinion that the New York State Labor Relations Act should not be amended solely for the purpose of complying with the provisions of 10 (a) of the National Act. If any of the provisions of the Taft-Hartley Act are beneficial, the majority of the Committee believes that such provisions should be individually considered upon their merits, and adopted by the New York State legislature with such amendments and changes as may seem desirable to adapt them to local conditions. The majority of the Committee recognizes that by adopting this procedure, the scope of the New York State Labor Relations Board is materially limited and that by far the larger part of labor relations problems in New York State will be governed by the National Labor Relations Act and be subject to the jurisdiction only of the National Labor Relations Board. They believe, however, that it would be poor policy to conform the New York State Act to the National Act solely for the purpose of retaining jurisdiction in the New York State Board, as this would result in making the New York State Board merely an arm of the Federal Government.

The majority of the Committee therefore recommends that no attempt be made to conform the New York Act to the National Act for the purpose of complying with Section 10 (a) of the National Act, but that the New York Act be examined anew to determine what, if any, changes are necessary therein, without reference to the possible cession of jurisdiction by the National Board.

THE MINORITY VIEW

The minority of the Committee recommends that the New York State Labor Relations Law should be amended so as to bring it into conformity with the National Act, for the purpose of enabling the National Board to cede to the State Board jurisdiction which the State Board had exercised prior to the passage of the Taft-Hartley Act. This recommendation is based primarily upon the desirability of lessening industrial strife by eliminating conflicts in the determination of whether federal or state law is applicable in a given situation. Such conflicts, which may well provoke litigation gravely detrimental to the public, will arise and assume importance because substantive rights will vary, dependent upon whether the federal or state law applies. The determination of which law applies depends upon the difficult and tenuous distinction as to whether or not interstate commerce is affected. The minority of the Committee does not believe that labor relations affecting interstate commerce can be wholly divorced from those which affect only intrastate commerce. Believing that, on balance, the Taft-Hartley Act, despite its obvious imperfections, constitutes an improvement in the labor laws of the United States, the minority is of the opinion that the advantages to be gained from uniformity of treatment outweigh the possibility of improving upon specific provisions of the National Act.

In addition to the advantages of uniformity between the Federal and State Acts, there is the entirely practical consideration that if the State Board is enabled to retain jurisdiction of the cases which it previously handled, the determination of labor controversies will be greatly facilitated. It is no answer to say that the staff of the National Labor Relations Board can be increased as much as necessary to handle the greatly increased volume of labor disputes originating in this State which will now be brought before that Board. Employer and employee alike are entitled to have their controversies determined by the Board itself and not by hearing officers or regional directors. It is also to the advantage of the public that such controversies should be determined quickly and with a minimum of litigation. It would,

in the opinion of the minority, be unfortunate if to the matters of substance in issue between the parties to a dispute there was added an issue as to the applicable law.

The minority recognizes that some amendments to the Taft-Hartley Act are desirable and, unless such amendments are unduly delayed, the minority of the Committee sees no objection to postponing any amendment of the State Act until necessary amendments to the Taft-Hartley Act have been considered. After a reasonable time for such consideration, however, the minority of the Committee believes that the State Act should be amended to conform to the Federal Act for the purpose of providing uniformity in labor relations and for the purpose of permitting the Federal Board to cede to the State Board jurisdiction over a great number of cases which in the past have been handled more expeditiously by the State Board than is possible before the National Board.

Respectfully submitted,

MORRELL S. LOCKHART, *Chairman*

HERBERT J. FABRICANT	GEORGE G. GALLANTZ
ARTHUR K. GARFINKEL	JAMES ELLIOTT HUGHES
HYMAN N. GLICKSTEIN	ARTHUR E. PETTIT
NATHAN GREENE	C. DICKERMAN WILLIAMS
ROBERT A. LEVITT	AARON BENENSON
FREDERICK H. ROHLFS	ISIDORE L. BROADWIN
WILLIAM C. SCOTT	LAWRENCE HUNT
L. BYRON CHERRY	JOSEPH C. KENNEDY
H. PRESTON COURSEN	WILLIAM E. MacKAY
JOHN L. FREEMAN	BENJAMIN MANDELKER

JOHN HARLEIGH MORSE

April 1, 1948

COMMITTEE ON THE CITY COURT

REPORT ON PRE-TRIAL PROCEDURE IN THE CITY COURT OF NEW YORK

Through a Subcommittee the Association's City Court Committee has restudied the field of pre-trial procedure by reading the literature on the subject, cases which have treated of matters involving and arising out of pre-trial, the rules in various jurisdictions which have adopted the practice, and also through visits to

the various courts in the Metropolitan district in which pre-trial procedure is now in use.

The suggested rule has been integrated in the present rules of the City Court of the City of New York. It carries the unanimous approval of the City Court Committee of the Association.

SUGGESTED RULE

The amendments below are given insofar as necessary to innovate pre-trial practice in the City Court, County of New York Division. Where the rules are not quoted at length a short explanation is given to show what is covered in the omitted portion.

Rule I provides for the divisions of the City Court.

Rule II is to be amended as follows, the underscored matter being new:

"RULE II

"CALENDARS

There shall be the following calendars in each division of the court:

General Jury Calendar.
General Non-Jury Calendar.
Commercial Jury Calendar.
Commercial Non-Jury Calendar.
Equity Calendar

and, in addition, for the County of New York, a Pre-trial Calendar."

[The balance of the foregoing Rule II not quoted contains other matter which has no relation whatsoever to pre-trial practice.]

Rule II-A relates to notes of issue and is not concerned in any way with pre-trial practice.

Rule III provides for a general call of the calendar which is not affected by pre-trial practice.

Rule IV provides for day calendars in the various counties of the City of New York. The first paragraph of this rule relates to the County of New York. In order to be consistent with present Rule VI which now purports to deal with the Calendar Practice for the County

of New York, the first paragraph of Rule IV should appear in Rule VI. The first paragraph of Rule IV is set forth below. The first two sentences have been deleted from Rule IV and appear now as subparagraph (a) of Rule VI. The third sentence of the first paragraph of Rule IV appearing in parentheses below has been omitted from the amended rules because it is inconsistent with present Rule VI(c).

> "In the County of New York all the calendars of the court shall be called on Friday of each week during the terms at Trial Term, Part III. The General Jury Calendar shall be called at 10 o'clock; the General Non-Jury Calendar at 11 o'clock; and the Commercial Jury and Non-Jury and Equity Calendars at 12 o'clock. (All causes marked ready upon such calls will be assigned to such trial parts as the justice presiding at the calls shall from time to time designate.)"

Rule V specifies the various trial terms to be held in the different counties and is in no way affected by pre-trial practice.

Rule VI is to be amended as follows, the omitted matter being set forth in parentheses and new matter being underscored:

"RULE VI

"CALENDAR PRACTICE FOR THE COUNTY OF NEW YORK

"((a) There shall be a Ready Calendar made up of causes answered ready on the call of the calendars on Fridays following those assigned to the various parts for trial.)" *"(a) In the County of New York all the calendars of the court shall be called on Friday of each week during the terms at Trial Term, Part III. The General Jury Calendar shall be called at 10 o'clock; the General Non-Jury Calendar at 11 o'clock; and the Commercial Jury and Non-Jury and Equity Calendars at 12 o'clock.*

"All causes marked ready on such calls shall be set down for immediate pre-trial hearing before a justice assigned for that purpose by the chief justice. A daily calendar of such hearings shall be prepared and the calendar clerk shall notify the attorneys for the parties the day before their case is expected to be reached for such hearing.

"Counsel familiar with the case and with authority to act must attend and parties may attend or the court may require

their attendance. Upon default of proper representation at such hearing the cause may be dismissed, an inquest directed, marked off or sent to the foot of the calendar. For good cause shown such hearing may be adjourned from time to time.

"The justice at such hearing shall consider with counsel the following:

1. Simplification and definition of the issues;

2. Stipulations in regard to waiver of rules of evidence as to proof of facts or writings;

3. Limitation of expert witnesses;

4. Procedural matters preliminary to trial not yet brought before the court;

5. The possibility of adjustment, compromise or settlement.

6. Such other matters as may aid in the disposition of the action.

"After the case appears on the calendar for pre-trial hearing, all motions thereunder shall be made at Special Term in accordance with Rule VII but they shall be referred to the justice who conducted the pre-trial hearing and the moving party must disclose in his papers the name of the justice before whom such hearing was held. The justice at the pre-trial hearing may provide for motions and other relief upon notice and shall fix the time for disposition thereof and except as so provided by the pre-trial justice the making of a motion after the case appears on the pre-trial calendar shall not be proper ground for adjournment of the trial.

"The court may enter an order which recites the action taken at such hearing, the amendments allowed to the pleadings, the stipulations with respect to the issues and to evidence and the limitation of witnesses, if any, and providing for such other motions and other relief as shall have been determined upon.

"Causes not otherwise disposed of at such hearing shall be placed upon a Ready Calendar to be assigned to the various parts for trial as hereinafter provided. The Justice presiding at the pre-trial hearing shall not sit as a judge at any trial of the same action."

The remainder of Rule VI as it now appears with subdivisions (b) through (m) which provides for the disposition of the Ready Calendar

will remain as now written since it has no bearing on pre-trial practice.

Rules VII through XXIV relate to various other matters in no way connected with the innovation of pre-trial practice.

Respectfully submitted,

COMMITTEE ON THE CITY COURT
OF THE CITY OF NEW YORK
OF
THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK

LESTER KISSEL, *Chairman*
ARNOLD BAUMAN
ROBERT L. CLARE, JR.
JOHN J. CLARKE
ROBERT TREAT CRANE, JR.
LESTER E. DENONN
STEPHEN P. DUGGAN, JR.
HERSEY B. EGGINTON
EUGENE H. GORDON
HOWARD HENIG
MORRIS J. JUNGER
EDNA NEUMANN
STANLEY F. REED, JR.
JOHN H. SHERRY
IRVING SLONIM
WILBERFORCE SULLY, JR.
IRVIN WALDMAN
HENRY G. WALTER, JR.

COMMITTEE ON ARBITRATION

INTERIM REPORT

During 1946 and 1947 the chairman of the Committee on Arbitration wrote a series of essays outlining trends in the use of voluntary arbitration of commercial and labor disputes, which were published in magazines. These essays noted a steady increase in the use of arbitration, together with favorable comment from the bench in Federal and State Courts where appeals had been taken.

The President of the Association, at the time it filed its report for 1947, suggested to the Committee that it conduct research to determine the trend also of lawyer participation at arbitration hearings, and to state its findings in a special report.

Adopting the President's suggestion, a sub-committee headed by Mr. Murray Jacobs, one of the members of the Committee on

Arbitration, was appointed, and has been notably active and painstaking in its work. The sub-committee is indebted to the assistance given it by Mr. J. Noble Braden, Administrative Vice-President of the American Arbitration Association, who not only sat in conference with them but also gave them access to the files of that Association. Mr. Albert C. Bickford, of the Association's Executive Committee, liaison member to the Committee, attended the meetings and aided with advice and suggestions.

It was decided by the sub-committee to go back twenty years to select a basis for comparison. A report was discovered in the files of the American Arbitration Association, which covered research up to and including the year 1926. This research showed that for the year ending December 31, 1926, 36% of the parties to arbitrations, when the arbitrations reached the hearing stage, were represented by lawyers.

During the twenty years from 1927 to 1947, there was noted a steady increase in lawyer participation. It is thought better for a summary to be given separately for certain recent years, divided into classifications. The contrast between 1927 and 1947 becomes more vivid when shown in that way. Hence the following figures:

	Commercial and Labor Hearings Grouped Together	
1938	Lawyer Participation	70%
	Commercial Tribunal	
1942	Lawyer Participation	80%
1946	Lawyer Participation	82%
	Labor Tribunal	
1942	Lawyer Participation	84%
1945	Lawyer Participation	91.7%
1947	Lawyer Participation	91.6%

The members of the sub-committee, who were completely unaware when the research began, what would be the result, were as astonished at the discovery of an increase of from 36% of law-

yer participation in 1926–27 to more than 91% in 1947, as will be the reader of this interim report.

Trend to Relaxation in Application of Ancient Rules of Groups, Barring Lawyer Participation

The chairman of the Committee read in the newspapers recently information of an ancient ordinance, which has never been amended or repealed, and which defined it to be a criminal act for a citizen residing in Rhode Island to enter upon the sacred soil of the Commonwealth of Massachusetts. It is not, therefore, a matter to create any rousing astonishment to discover that some trade and labor associations retain on their books rules prohibiting the pollution of their deliberations by the presence of members of the bar. But the growing sense of the value of lawyer participation is gradually breaking down the impediments of these rules. The sub-committee established contacts with a number of the leading groups who were subject to prohibitory rules. Illustrative is Association of Food Distributors, which has a rule that "parties may not be represented by lawyers." But, in four separate years, the rule has been waived where the parties have requested the presence of their counsel. The New York Stock Exchange has a rule that where membership disputes arise the parties have no *right* to counsel. The sub-committee examined the records for six years back and report that "definitely there has been a gradual increase in the number of cases attended by lawyer participation." In the last six years the increase has been such that during that period the parties appeared by attorneys in 26.5% of the New York Stock Exchange cases actually reaching hearings.

Participation by Lawyers in Arbitration Hearings As Arbitrators

The sub-committee having reported at a meeting attended by Mr. Bickford of the Executive Committee, Mr. Bickford sug-

gested that the members of the Association might be interested to know also the extent to which lawyers were acting, in addition to representation of counsel, actually as the arbitrators of the dispute. So, the patient sub-committee and the more than patient Mr. Braden, of the American Arbitration Association, went at this task through the re-examination of individual cases and annual reports and compilations.

It was discovered that the lowest percentage of lawyer participation naturally occurred in the commercial field where experts in the particular industry involved are selected. Often there are two of those in a three party panel of arbitrators. Yet, in those commercial cases, 21% of the arbitrators have been lawyers. There is a great increase in the field of labor arbitrations where 61% of the arbitrators are lawyers. In accident cases, arising on statutory claims, all the arbitrators have been lawyers.

Respectfully submitted,

Committee on Arbitration

JOHN T. MCGOVERN
Chairman

January 17, 1948

The Library

SIDNEY B. HILL, *Librarian*

SELECTED LIST OF WORKS ON PATENT, TRADE-MARK AND COPYRIGHT LAW

In the compiling of this list, currently used materials have been stressed and it therefore contains but a fraction of the literature available on these subjects. Congressional Hearings and other official government publications, international conventions and agreements, periodicals, monographs and early treatises not here listed, offer opportunities for more extensive research. One can trace in these ma-

terials the technological progress in this country from the adoption by the Constitutional Convention of 1787 of the provision "To promote the progress of Science and the useful Arts" to the Atomic Energy Control Acts of today.

PATENTS

Allyn, R. S. First Plant Patents. New York, Educ. Foundations, Inc. 1934. 105p.

Amdur, L. H. Patent Law and Practice. New York, Clark Boardman Co., Ltd. 1935. 1332p.

American Association for the Advancement of Science, Committee on Patents, Copyrights and Trade Marks. Protection by Patents of Scientific Discoveries. New York, Science Press Printing Co. 1934. 40p.

American Bar Association, Section of Patent, Trade-Mark and Copyright Law. Committee Reports, Papers, etc. Chicago, American Bar Association. 1933–47. 22 pamphlets.

Ballard, W. R. There is no Mystery about Patents. New York, J. M. Barrett Corp. 1946. 120p.

Barnett, O. R. Patent Property and the Anti-Monopoly Laws. New York, Bobbs-Merrill Co. 1943. 662p.

Bennett, W. B. American Patent System. Baton Rouge, La., La. State Univ. Press. 1943. 259p.

Biesterfeld, C. H. Patent Law. New York, John Wiley & Sons, Inc.1943. 225p.

Bryn, T. Norwegian Patent Law and Practice. Oslo, Bryns Patentkontor a/s. 1937. 92p.

Carlsen, B. Danish Patent, Design and Trade Mark Law. 2nd ed. Copenhagen, Denmark, Dansk Patentkontor. 1933. 24p.

*Deller, A. W. Principles of Patent Law for the Chemical and Metallurgical Industries. New York, Chemical Catalog Co., Inc. 1931. 483p.

Dickerson, D. L. Socony-Vacuum Patent Manual. New York, Socony-Vacuum Oil Co. 1944. 105p.

Ellis, R. Patent Assignments and Licenses. 2nd ed. New York, Baker, Voorhis & Co. 1943. 944p.

Federal Bar Association of New York, New Jersey and Connecticut. Symposium on Patents. New York Appellate Law Printers, Inc. 1939. 121p.

Folk, G. E. Patents and Industrial Progress. 2nd ed. New York, Harper & Bros. 1942. 393p.

Fox, H. G. Canadian Law and Practice Relating to Letters Patent for Inventions. Toronto, Carswell Co., Ltd. 1937. 688p.

Fox, H. G. Patent, Trade Mark, Design and Copyright Cases. Toronto, Carswell Co., Ltd. 1943-45. 4 vols.

---

* Not in the library.

Glascock, E. S. and Stringham, E. Patent Law: Substantive Aspects. Madison, Wis., Pacot Publications. 1943. 522p.

Graham, J. P. Awards to Inventors. London, Sweet & Maxwell, Ltd. 1946. 171p.

Haddan, R. Compendium of Patents and Designs Law and Practice. Toronto, Carswell Co., Ltd. 1931. 605p.

*Hayes, J. E. Definition of Invention. Boston, De Wolfe & Fiske Co. 1941. 133p.

Hayes, J. E. The Nature of Patentable Invention. Cambridge, Mass., Addison-Wesley Press. 1945. 183p.

Hoar, R. S. Patent Tactics and Law. New York, Ronald Press Co. 1940. 315p.

Japanese Laws and Ordinances Concerning Patents, Trade-marks, Designs and Utility Models. Translated from the original text of the Japanese Official Gazette by J. E. De Becker. Toronto, Carswell Co., Ltd. 1930. 228p.

Jones & Co. Oficina Internacional de Patentes y Marcas. Buenos Aires, Jones. 1937. 35p.

Journal of the Patent Office Society. Washington, D. C., Patent Office Society. 1918 to date. 30 vols.

McCrady, A. R. Patent Office Practice. 2nd ed. Madison, Wis., Pacot Publications. 1946. 466p.

Marks of Woolwick, G. C. M. and Wolstenholme, R. A. Patents and Designs Acts. Toronto, Carswell Co., Ltd. 1933. 147p.

Meigs, J. V. Time, the Essence of Patent Law. New York, Baker, Voorhis & Co., Inc. 1940. 259p.

Meinhardt, P. Inventions, Patents and Monopoly. London, Stevens & Sons, Ltd. 1946. 352p.

Meyer, A. Patent and Trade Mark Laws in the U.S.S.R. New York, Russian Economic Inst. 1944. 19p.

*Michel, A. J. World's Patent Laws. New York, The Author. 1945. loose-leaf.

*Moulton, H. F. and Evans-Jackson, J. H. eds. Patents, Designs and Trade Marks Acts. 2nd ed. Toronto, Carswell Co., Ltd. 1930. 197p.

*Ormond, E. C. Law of patents in India in Relation to Inventions. Calcutta, Eastern Law House. 1936. 1162p.

Parsons, C. S. Patents, Designs and Trade Marks. Toronto, Carswell Co., Ltd. 1938. 183p.

Patent and Trade Mark Review. New York, Trade Activities, Inc. 1902 to date. 46 vols.

Patent Office Society. Outline of the History of the U. S. Patent Office. Washington, D. C., The Society. 1936. 234p.

Riches, C. H. & Sons. comp. Canada, Patents, Trade Marks, Designs. Toronto, Riches. 1937. 22p.

---

* Not in the library.

Rivise, C. W. Preparation and Prosecution of Patent Applications. Charlottesville, Va., Michie Co. 1933. 484p.

Rivise, C. W. and Caesar, A. D. Interference Law and Practice. Charlottesville, Va., Michie Co. 1940-47. 3 vols.

Rivise, C. W. and Caesar, A. D. Patentability and Validity. Charlottesville, Va., Michie Co. 1936. 755p.

*Rossman, J. Law of Patents for Chemists. 2nd ed. Baltimore, Md., Waverly Press. 1934. 378p.

*Scher, V. A. Patenting the Invention. New York, Matthew Bender & Co. 1948. (to be published in April).

Severance, B. Manual of Foreign Patents. Washington, D. C., Patent Office Society. 1935. 161p.

Stringham, E. Double Patenting. Madison, Wis., Pacot Publications. 1933. 624p.

Stringham, E. Outline of Patent Law and Guide to Digests. Madison, Wis., Pacot Publications. 1937. 691p.

Stringham, E. Patent Claims. Madison, Wis., Pacot Publications. 1939-41. 2 vols.

Stringham, E. Patent Interference Equity Suits. Madison, Wis., Pacot Publications. 1930. 213p.

Stringham, E. ed. Patents and Gebrauchmuster in International Law. Madison, Wis., Pacot Publications. 1935. 538p.

Stringham, E. Preliminary Statement in Patent Interference. Madison, Wis., Pacot Publications. 1938. 141p.

Stringham, E. Semiotic of Patent Interference Count. Madison, Wis., Pacot Publications. 1941. 198p.

Stringham, E. and Glascock, E. S. Patent Soliciting and Examining. Madison, Wis., Pacot Publications. 1934. 743p.

Terrell, T. Law and Practice Relating to Letters Patent for Inventions. 8th ed. Toronto, Carswell Co., Ltd. 1934. 687p.

Thomas, E. Law of Chemical Patents. 2nd ed. New York, D. Van Nostrand Co., Inc. 1938. 675p.

Toulmin, H. A. Invention and the Law. New York, Prentice-Hall, Inc. 1936. 399p.

Toulmin, H. A. Patents and the Public Interest. New York, Harper & Bros. 1939. 205p.

Underwood's Case Digest of Patents. 1901 to date.

United States Patents Quarterly. Washington, D. C., Bureau of National Affairs, Inc. 1929 to date. 76 vols.

Vojaček, J. Survey of the Principal National Patent Systems. New York, Prentice-Hall, Inc. 1936. 209p.

Walker, A. H. Patents. Edited by A. W. Deller. New York, Baker, Voorhis & Co. 1937. supplement to date. 4 vols.

---

* Not in the library.

White, W. W. and Ravenscroft, B. G. Patents Throughout the World. 2nd ed. New York, Trade Activities, Inc. 1944. supplement to date. 416p.

Wolcott, C. L. Manual of Patent Office Procedure. 8th ed. Washington, D C., Patent Office Soc. 1940. 337p.

Wood, L. I. Patents and Antitrust Law. New York, Commerce Clearing House, Inc. 1942. 218p.

*Woodling, G. V. Inventions and their Protection. New York, Penton Pub. Co. 1938. 326p.

Zabel, M. W. Patent Royalty Contract. 1940 Cum. Supp. New York, Prentice-Hall, Inc. 1940. 173p.

TRADE-MARKS

*Amdur, L. H. Trade-Mark Law and Practice. Lanham Act ed. New York, Clark Boardman Co., Ltd. 1948. (to be published in April.)

Allman, N. F. Handbook on the Protection of Trade-Marks, Patents, Copyrights, and Trade-names in China. Shanghai, Kelly & Walsh, Ltd. 1924. 207p.

American Bar Association, Section of Patent, Trade-Mark and Copyright Law. Committee Reports, Papers, etc. Chicago, American Bar Association. 1933-47. 22 pamphlets.

Beau de Lomenie, G. La Legislation Francaise sur les Brevets d'Invention et les Marques de Fabrique et de Commerce. Paris, Recueil Sirey. 1939. 160p.

Borden, N. H. Determination of Confusion in Trade-mark Conflict Cases. Boston, Harvard Univ. Bureau of Business Research. 1937. 34p.

Brandon, Simonnot and Rinuy. Patents and Trade Marks in French Speaking Countries. 8th ed. London, Cassell & Co., Ltd. 1937. 71p.

Bray, F. E. and Underhay, F. G. The Trade Marks Act, 1938. London, Sweet & Maxwell, Ltd. 1938. 184p.

Callmann, R. Law of Unfair Competition and Trade-marks. Chicago, Callaghan & Co., Inc. 1945. 3 vols.

Callmann, R. Unfair Competition. New York, Practising Law Institute. 1946. 79p.

Derenberg, W. J. Trade-mark Protection and Unfair Trading. Albany, New York, Matthew Bender & Co., Inc. 1936. 1162p.

Derenberg, W. J. Problems in Registration Procedure. New York, Practising Law Institute. 1947. 22p.

Fox, H. G. Canadian Law of Trade Marks and Industrial Designs. Toronto, Carswell Co., Ltd. 1940. 700p.

Fox, H. G. Patent, Trade Mark, Design and Copyright Cases. Toronto, Carswell Co., Ltd. 1943-45. 4 vols.

Griffiths, A. W. Trade Mark Law and Practice. Toronto, Carswell Co., Ltd. 1930. 252p.

---

* Not in the library.

Haddan, R. Compendium of Trade Mark Law and Practice. London, Harrison & Sons, Ltd. 1931. 381p.

Haddan. R. Trade Marks and their Protection under the Trade Marks Act, 1938. New York, Pitman Pub. Corp. 1938. 128p.

Halliday, W. J. Geography of Trade-marks, Concurrent Use and Registrations. New York, the author. 1947. 23p.

Heiding, S. Om Regisrerade Varumarken och Inarbetade Kannetecken. Uppsala, Sweden, Almquist & Wiksells Boktryckeri AB. 1946. 237p.

Hoge, J. F. An Analysis of the United States Trade-mark Act of July 5, 1946. New York, Rogers, Hoge & Hills. 1947. 26p.

Ladas, S. P. The International Protection of Trade Marks by the American Republics. Cambridge, Mass., Harvard Univ. Press. 1929. 136p.

Liddy, S. J. Trade-marks from Manufacturers' and Retailers' Points of View. New York, Practising Law Institute. 1947. 20p.

Lloret y Roman, M. and Ameller y Escobar, J. Ley de Propiedad Industrial. Habana, Cuba. 1940. 608p.

Moses, I. G. R. Trade Marks Practice at the Patent Office. London, Waterlow and Sons, Ltd. 1946. 334p.

Munn, O. D. ed. Trade Marks and Unfair Competition. New York, Scientific Am. Pub. Co. 1934. 88p.

Nims, H. D. The Law of Unfair Competition and Trade-Marks. 4th ed. New York, Baker, Voorhis & Co., Inc. 1947. supplements to date. 2 vols.

Patent and Trade Mark Review. New York, Trade Activities, Inc. 1902 to date. 46 vols.

Patents and Trade Marks in Holland and Colonies. The Hague, Holland, Nederlandsch Octrooi Bureau. 1938. 93p.

Ravenscroft, B. G. and White, W. W. Trade Marks Throughout the World. New York, Trade Activities, Inc. 1944. supps. to date. 1150p.

Research Institute of America, Inc. Preparing for the New Trade-Mark Law Effective July, 1947. New York, Research Inst. 1946. 56p.

Ricardo, Joseph and J. E. S. Handbook on Trade Marks and Trade Names. 2nd ed. London, Jordon & Sons, Ltd. 106p.

Robert, D. The New Trade-mark Manual. Washington, D. C., Bureau of National Affairs. 1947. 375p.

Rogers, E. S. New Concepts of Unfair Competition Under the Lanham Act. New York, Practising Law Institute. 1948. 25p.

Sereni, A. P. I Marchi di Fabbrica e di Commercio nel Diritto Internazionale Privato. Milano, A. Giuffre. 1938. 208p.

Taggart, L. D. Statutory New Concepts of Trade-mark Ownership. New York, Practising Law Institute. 1948. 25p.

Toulmin, H. A. The Trade-mark Act of 1946. Cincinnati, W. H. Anderson Co. 1946. 224p.

Trade-Mark Reporter. Burlington, Vt., U. S. Trade-Mark Association. 1911 to date. 38 vols.

Underwood's Case Digest of Trade Marks. 1901 to date.

Venkateswaran, S. Law and Practice Under the Trade Marks Act. Calcutta, Eastern Law House. 1945. 1128p.

*Venkateswaran, S. Law of Trade and Merchandise Marks in India. Toronto, Carswell Co., Ltd. 1937. 767p.

COPYRIGHT

Amdur, L.H. Copyright Law and Practice. New York, Clark Boardman Co., Ltd. 1936. 1332p.

American Bar Association, Section of Patent, Trade-Mark and Copyright Law. Committee Reports, Papers, etc. Chicago, American Bar Association. 1933-47. 22 pamphlets.

American Society of Composers, Authors and Publishers. Copyright Law Symposium, the Nathan Burkan Memorial Competition. New York, The Society. 1939. 195p.

American Society of Composers, Authors and Publishers. Second Copyright Law Symposium. New York, The Society. 1940. 167p.

American Society of Composers, Authors and Publishers. Third Copyright Law Symposium. New York, The Society. 1940. 393p.

Annales de la Propriete Industrielle, Artistique et Litteraire. Paris, Redaction, Administration et Abonnements. 1885–1926. 68 vols.

Ball, H. G. Law of Copyright and Literary Property. New York, Matthew Bender & Co. 1944. 976p.

Copinger, W. A. Law of Copyright in Works of Literature, Art, Architecture, Photography, Music and the Drama. 7th ed. London, Sweet & Maxwell, Ltd. 1936. 617p.

Copyright Protection in the Americas Under National Legislation and Inter-American Treaties. Washington, D. C., Pan American Union. 1943. 89p.

*Creange, H. Safeguarding Industry Against the Pilfering of Ideas. New York, George Grady Press, Inc. 1934. 67p.

De Wolf, R. C. An Outline of Copyright Law. Boston, Mass., John W. Luce & Co. 1925. 330p.

Deak, F. Report on the Status of International Copyright Protection and on the Brussels Meetings of the Committee of Experts. New York, Columbia Univ. Press. 1938. 91p.

Fox, H. G. Canadian Law of Copyright. Toronto, Univ. of Toronto Press. 1944. 770p.

Fox, H. G. Patent, Trade Mark, Design and Copyright Cases. Toronto, Carswell Co., Ltd. 1943-45. 4 vols.

Gotshal, S. and Lief, A. Pirates Will Get You. New York, Columbia Univ. Press. 1945. 103p.

Homburg, R. Legal Rights of Performing Artists. New York, Baker, Voorhis & Co. 1934. 184p.

---

* Not in the library.

Howell, H. A. Copyrights. New York, Practising Law Institute. 1946. 71p.
*Howell, H. A. Law of Copyright. Washington, D. C. Bureau of National Affairs, Inc. 1948. (to be published in April.)
Inter-American Conference of Experts on Copyright. Final Act of the Inter-American Conference of Experts on Copyright. Washington, D. C., Pan American Union. 1946. 42p.
Inter-American Conference of Experts on Copyright. Report of U. S. Delegate Including the Final Act and Related Documents. Washington, D. C., U. S. Gov't. Printing Office. 1947. 81p.
*Judge, C. B. Elizabethan Book-Pirates. Cambridge, Mass., Harvard Univ. Press. 1934. 198p.
Kilroe, E. P. Lecture on Copyright Legislation, England, U. S., France. New York, Practising Law Institute. 1944. 51p.
Kilroe, E. P. Lecture on International Copyright. New York, Practising Law Institute. 1944. 92p.
Ladas, S. P. International Protection of Literary and Artistic Property. New York, Macmillan Co. 1938. 2 vols.
*Leahy, W. H. How to Protect Business Ideas. New York, Harper & Bros. 1936. 157p.
McClure, W. International Law of Copyright. Washington, D. C., U. S. Gov't. Printing Office. 1938. 24p.
Michaelides-Nouaros, G. Le Droit Moral de l'Auteur. Paris, A. Rousseau. 1935. 369p.
National Committee of the United States of America on International Intellectual Cooperation; Committee for the Study of Copyright. Comparative Study of Copyright Protection in Latin America 1938. New York, Columbia Univ. Press. 1941. 146p.
*Nicholson, M. Manual of Copyright Practice for Writers, Publishers and Agents. New York, Oxford Univ. Press. 1946. 255p.
*Pollard, A. W. Shakespeare's Fight with the Pirates and the Problems of the Transmission of his Text. 2nd ed. New York, Macmillan Co. 1917. 112p.
Rosenschein, C. S. Copyright Litigation. New York, Practising Law Institute. 1944. 43p.
Russell-Clarke, A. D. Copyright in Industrial Designs. New York, Pitman Pub. Corp. 1930. 205p.
Shafter, A. M. Musical Copyright. 2nd ed. Chicago, Callaghan & Co., Inc. 1939. 667p.
Valeria, E. and Algardi, Z. Il Diritto d'Autore. Milano, Dott. A. Giuffre. 1943. 513p.
*Wittenberg, P. Protection and Marketing of Literary Property. Boston, The Writer, Inc. 1937. 395p.

* Not in the library.

THE NEW YORK TRUST COMPANY

100 BROADWAY

MADISON AVENUE AND 40TH STREET • TEN ROCKEFELLER PLAZA

Complete Personal and Corporate Trust Services

TRUSTEES

MALCOLM P. ALDRICH
New York

GRAHAM H. ANTHONY
President
Colt's Manufacturing Company

ARTHUR A. BALLANTINE
Root, Ballantine, Harlan, Bushby & Palmer

JOHN E. BIERWIRTH
President

ALFRED A. COOK
Cook, Lehman & Goldmark

WILLIAM F. CUTLER
Vice President
American Brake Shoe Company

RALPH S. DAMON
President
American Airlines, Inc.

FRANCIS B. DAVIS, Jr.
Chairman of the Board
United States Rubber Company

SAMUEL H. FISHER
Litchfield, Conn.

WILLIAM HALE HARKNESS
New York

HORACE HAVEMEYER, Jr.
Executive Vice President
The National Sugar Refining Co.

B. BREWSTER JENNINGS
President
Socony-Vacuum Oil Co., Inc.

J. SPENCER LOVE
Chairman of the Board
Burlington Mills Corporation

ADRIAN M. MASSIE
Vice President

HARRY T. PETERS
New York

SETON PORTER
President, National Distillers Products Corporation

ROBERT C. REAM
President
American Re-Insurance Co.

MORRIS SAYRE
President
Corn Products Refining Co.

CHARLES J. STEWART
Vice President

VANDERBILT WEBB
Patterson, Belknap & Webb